
SUBSTITUTE HOUSE BILL 1710

State of Washington

67th Legislature

2022 Regular Session

By House Commerce & Gaming (originally sponsored by Representatives Shewmake, Ramel, Harris-Talley, and Kloba)

READ FIRST TIME 01/25/22.

1 AN ACT Relating to establishing a Washington state cannabis
2 commission; amending RCW 41.06.070; adding a new section to chapter
3 69.50 RCW; and adding a new chapter to Title 15 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that the Washington
6 state liquor and cannabis board exists to promote safe communities
7 and public safety. However, there is no agency to oversee research
8 and education of the cannabis industry within the state. The
9 legislature therefore declares:

10 (1) The Washington state cannabis cultivation commission is
11 established to benefit the people of the state of Washington and its
12 economy;

13 (2) The general welfare of the people of the state will be served
14 by the development of the safe growing and processing activities of
15 cannabis. The industry is therefore affected with the public
16 interest; and

17 (3) Creation of a Washington state cannabis cultivation
18 commission for the public purpose of administering the revenue of the
19 commission for the enhancement of the safe production of cannabis
20 will materially advance the industries of growing and processing

1 cannabis, improve sustainability in the growing and processing
2 sectors, and thereby the interests of the citizens of the state.

3 NEW SECTION. **Sec. 2.** To complement the development of a
4 comprehensive regulatory scheme to regulate the production and
5 processing of cannabis and cannabis products, the legislature
6 declares that:

7 (1) It is in the overriding public interest that state government
8 support responsible agricultural production of cannabis in order to:

9 (a) Protect the public by educating the public in reference to
10 the quality, care, and methods used in the production of cannabis and
11 cannabis products; and

12 (b) Support and engage in programs or activities that benefit the
13 safe production, handling, processing, and uses of cannabis and
14 cannabis products; and

15 (2) The production of cannabis is a highly regulated industry.
16 Other laws applicable to the cannabis industry include:

17 (a) Chapter 15.130 RCW, the food safety and security act;

18 (b) Chapter 15.125 RCW, marijuana and marijuana products;

19 (c) Title 69 RCW, food, drugs, cosmetics, and poisons; and

20 (d) Chapter 82.08 RCW, retail sales tax.

21 NEW SECTION. **Sec. 3.** This chapter and the rules adopted under
22 this chapter are for the purpose of fostering responsible and orderly
23 agricultural production of cannabis. The legislature has granted
24 authority to other state agencies to regulate the cannabis industry
25 and nothing in this chapter should be interpreted to conflict with or
26 supersede that other overriding regulatory authority.

27 NEW SECTION. **Sec. 4.** The definitions in this section apply
28 throughout this chapter unless the context clearly requires
29 otherwise.

30 (1) "Board" means the Washington state liquor and cannabis board.

31 (2) "Cannabis" has the meaning provided for "marijuana" in RCW
32 69.50.101.

33 (3) "Commission" means the Washington state cannabis cultivation
34 commission established by this chapter.

35 (4) "Cooperative" means a group of more than one, but no more
36 than four qualified medical marijuana patients or designated
37 providers, who share responsibility for growing and processing

1 marijuana only for the medical use of the members of the cooperative
2 as provided in RCW 69.51A.250.

3 (5) "Department" means the Washington state department of
4 agriculture.

5 (6) "Director" means the director of the Washington state
6 department of agriculture or the director's designee.

7 (7) "District" means each of the geographical divisions of the
8 state of Washington established under section 8 of this act.

9 (8) "Fiscal year" means the 12-month period beginning July 1st of
10 any year and ending June 30th.

11 (9) "Interested parties" means governmental departments,
12 agencies, and bodies at the federal, state, or local levels including
13 tribal governments, as well as universities, national and
14 international associations, and other public and private sector
15 organizations with an interest in cannabis-related matters.

16 (10) "Processor" means any person or legal entity holding in its
17 name a marijuana processor license issued by the board.

18 (11) "Producer" means any person or legal entity holding in its
19 name a marijuana producer license issued by the board. This license
20 type does not also own a processor license.

21 (12) "Producer/processor" means any person or legal entity
22 holding in its name both a marijuana producer and marijuana processor
23 license.

24 (13) "Retailer" means any person or legal entity holding a
25 marijuana retail license issued by the board.

26 (14) "Testing laboratory" means any laboratory accredited to
27 conduct cannabis-related analysis.

28 (15) "Tier" means any of the production licensing categories
29 established by rule of the board.

30 NEW SECTION. **Sec. 5.** The Washington state cannabis cultivation
31 commission is established to:

32 (1) Plan and conduct programs for cannabis-related matters;

33 (2) Provide for conducting research as provided in commission
34 rules;

35 (3) Cooperate with and act in an advisory capacity to local,
36 state, and federal agencies or other interested parties with respect
37 to cannabis-related matters within the scope of the powers and
38 purposes of the commission and as described in commission rules;

1 (4) Cooperate with other interested parties toward standardizing
2 methods by which to identify and determine the genetics, strains,
3 cultivars, phenotypes, standards, and grades of cannabis and advise
4 on packaging and labeling requirements with respect to the same;

5 (5) Conduct reviews, surveys, and inquiries regarding market
6 metrics and analytics, including trends, revenues, profitability,
7 projections, production, business practices, and other economic
8 drivers of the industry;

9 (6) Inform and advise producers and producer/processors in all
10 matters regarding cannabis including, but not limited to, educational
11 information on its cultivation, usage, risks, and related technical
12 and scientific developments;

13 (7) Provide cannabis-related education and training to producers,
14 producer/processors, researchers, and their employees, including
15 health and safety information;

16 (8) Provide information and services for meeting resource
17 conservation objectives of producers and producer/processors;

18 (9) Assist and cooperate with local, state, or federal government
19 agencies in the investigation and control of pests, diseases, and
20 other factors that could adversely affect the cultivation, quality,
21 or safety of Washington-produced cannabis;

22 (10) Advance knowledge and practice of the production of cannabis
23 in this state through the research and testing of methods to improve
24 pest management, worker protection and safety training, energy
25 efficiency, and environmental protection;

26 (11) Foster conditions favorable to investment in the production
27 of Washington cannabis consistent with state and federal laws;

28 (12) Limit youth access and youth exposure to cannabis; and

29 (13) Enable cannabis producers and producer/processors of this
30 state, with the aid of the state to:

31 (a) Develop and engage in research including, but not limited to,
32 discovering better and more efficient production, irrigation, odor
33 mitigation, processing, transportation, handling, packaging, and use
34 of cannabis commodities;

35 (b) Provide for uniform grading and proper preparation of
36 cannabis commodities for market;

37 (c) Protect the interest of consumers and the state by advising
38 on the overall production of cannabis to assure a balanced,
39 sufficient, and wholesome supply of cannabis commodities of good
40 quality at all seasons and times;

- 1 (d) Discover and develop new and improved cultivars for the
2 reliable and economical production of cannabis in the state; and
3 (e) Advance knowledge and the practices of processing cannabis in
4 the state.

5 NEW SECTION. **Sec. 6.** The commission may:

6 (1) Elect a chair and other officers by a majority vote of the
7 commission or as contained in bylaws adopted by the commission;

8 (2) Adopt, rescind, and amend bylaws and other internal rules of
9 governance necessary for the administration and operation of the
10 commission and for carrying out its duties under this chapter;

11 (3) Administer, enforce, direct, and control the provisions of
12 this chapter;

13 (4) Employ and discharge at its discretion such administrators,
14 staff, professional consultants and service providers, and other
15 persons and firms that it may deem appropriate;

16 (5) Designate a public records officer, rules coordinator, and
17 other representatives required by the laws governing state agencies
18 and commissions;

19 (6) Comply with all other laws applicable to state agencies and
20 commissions;

21 (7) Acquire personal property and purchase or lease office space
22 and other necessary real property and transfer and convey the same;

23 (8) Institute and maintain in its own name any and all legal
24 actions, including actions by injunction, mandatory injunction, or
25 civil recovery, or proceedings before administrative tribunals or
26 other governmental authorities necessary to carry out this chapter;

27 (9) Keep accurate records of all its receipts and disbursements,
28 which records must be open to inspection and audit by the state
29 auditor or private auditor designated by the state auditor at least
30 every five years and at any time by a duly appointed internal auditor
31 upon a majority vote of the commission;

32 (10) Make necessary disbursements for routine operating expenses;

33 (11) Expend funds for all activities, projects, and undertakings
34 of the commission permitted under this chapter, including but not
35 limited to cannabis-related education and training programs for
36 producers, producer/processors, researchers, or their employees;

37 (12) Cooperate with other interested parties for the purposes of
38 this chapter;

1 (13) Serve as liaison with the board and all other interested
2 parties on behalf of the commission and not for any individual
3 producer or producer/processor;

4 (14) Enter into contracts or cooperative agreements for research
5 as provided in this chapter;

6 (15) Enter into contracts or interagency agreements with any
7 other interested parties to carry out this chapter in accordance with
8 applicable provisions of Title 39 RCW;

9 (16) Solicit, accept, and expend or retain any gifts, bequests,
10 contributions, or grants from private persons or public agencies to
11 carry out this chapter;

12 (17) Retain in emergent situations the services of private legal
13 counsel to conduct legal actions on behalf of the commission,
14 provided that the retention of a private attorney is subject to the
15 appointment or approval by the office of the state attorney general;

16 (18) Engage in appropriate activities and events for the purpose
17 of supporting activities of the commission authorized by this
18 chapter;

19 (19) Participate in international, federal, state, and local
20 hearings, meetings, and other proceedings in all matters relating to
21 cannabis, including without limitation the production, irrigation,
22 manufacture, regulation, transportation, distribution, sale, or use
23 of cannabis including activities authorized under RCW 42.17A.635, and
24 the reporting of those activities to the public disclosure
25 commission;

26 (20) Obtain from the board a list of the names and addresses of
27 producers, processors, and retailers, and such other available data
28 from the state as requested by the commission to be used to
29 disseminate information among and solicit the opinions of producers
30 and producer/processors with respect to the discharge of the duties
31 of the commission, directly, or by arrangement with trade
32 associations or other instrumentalities;

33 (21) Acquire, create, develop, and own intellectual property
34 rights, licenses, and patents and to collect royalties resulting from
35 the sale or licensing of commission-funded research, provided all
36 results and recommendations from research conducted or funded by the
37 commission must be available to all producers and producer/processors
38 without charge, except for reasonable out-of-pocket costs as the
39 commission may determine;

1 (22) Speak on behalf of the Washington state government with
2 regard to agricultural production of cannabis in the state, subject
3 to oversight of the director;

4 (23) Possess cannabis products for the limited purposes of
5 section 5 of this act;

6 (24) Subject to section 7 of this act, adopt rules to implement
7 this chapter; and

8 (25) Exercise other powers and duties necessary to carry out this
9 chapter.

10 NEW SECTION. **Sec. 7.** The department shall serve as the
11 commission's rules coordinator. The commission's rules are subject to
12 the director's approval.

13 NEW SECTION. **Sec. 8.** (1) The commission shall consist of 13
14 voting members: Eight producer or producer/processor members from the
15 districts; one statewide at large producer or producer/processor
16 member; one statewide tier one or equally small producer or producer/
17 processor member; one statewide tier two or equally medium producer
18 or producer/processor member; one statewide tier three or equally
19 large producer or producer/processor member; and the director.

20 (2) A nonvoting advisory council is created to assist the
21 commission. The director must appoint the following to the advisory
22 council: One stand alone processor member and one testing laboratory
23 member.

24 The advisory members must be considered from a pool of self-
25 nominated active business representatives from each business type
26 under this section.

27 (3) Each member of the commission and the advisory council other
28 than the director must:

29 (a) Be 21 years of age or older;

30 (b) Be a citizen and resident of this state;

31 (c) Directly hold or be a named owner in whole or in majority
32 part of an entity holding the relevant business license issued by the
33 board. This license must not be suspended at the time of nomination,
34 election, or appointment and must not be suspended at any time during
35 the member's term;

36 (d) Be engaged in the production of cannabis within the state of
37 Washington for a period of three years and have, during that period,
38 derived a substantial portion of their income therefrom. Any assignee

1 by a licensee must be and have been, either individually or as an
2 officer or employee of a corporation, firm, partnership, association,
3 or cooperative, actually engaged in producing cannabis within the
4 state of Washington for a period of three years and have, during that
5 period, derived a substantial portion of their income therefrom; and

6 (e) Continue to meet all membership qualifications throughout the
7 member's term.

8 (4) Producer members in voting positions must be producers with
9 production facilities in the district in which they are nominated and
10 elected. Producer members elected to at large positions may be from
11 any district.

12 (a) District one, positions one and two, comprises the counties
13 of Clallam, Island, Jefferson, King, San Juan, Skagit, Snohomish, and
14 Whatcom.

15 (b) District two, positions three and four, comprises the
16 counties of Chelan, Douglas, Ferry, Grant, Kittitas, Okanogan, Pend
17 Oreille, and Stevens.

18 (c) District three, positions five and six, comprises the
19 counties of Adams, Asotin, Benton, Columbia, Franklin, Garfield,
20 Lincoln, Spokane, Walla Walla, Whitman, and Yakima.

21 (d) District four, positions seven and eight, comprises the
22 counties of Clark, Cowlitz, Grays Harbor, Kitsap, Klickitat, Lewis,
23 Mason, Pacific, Pierce, Skamania, Thurston, and Wahkiakum.

24 (5) The initial commission members shall be appointed by the
25 director.

26 (a) Four must be appointed for a one-year term.

27 (b) Four must be appointed for a two-year term.

28 (c) Four must be appointed by the director for a three-year term.

29 (d) The initial members must be considered from a pool of self-
30 nominated qualified producers from each district under this section.

31 (e) Thereafter, commission members other than the director must
32 be elected by a vote of qualified producers or producer/processors in
33 each district for three-year terms.

34 (6) If a member vacancy occurs, at the board's first meeting
35 after the position becomes vacant, the remaining board members shall
36 recommend to the director a qualified person for appointment to the
37 vacant position. The director must appoint a replacement from those
38 nominations within 14 days.

39 (7) When making initial appointments and replacement
40 appointments, the director must give priority to persons who

1 represent communities of color in order to maintain a balanced and
2 diverse distribution of members based on disproportionately impacted
3 communities, ethnicity, geographic location, gender identity, sexual
4 orientation, and age, where practicable.

5 (8) Seven voting members of the commission constitute a quorum
6 for the transaction of any commission business.

7 (9) Each member of the commission shall be reimbursed for
8 expenses incurred in the performance of their duties in accordance
9 with RCW 43.03.050 and 43.03.060.

10 (10) Within 90 days after the effective date of this section, the
11 director must appoint the initial members of the commission.

12 (11) The commission shall meet regularly as determined by the
13 members.

14 NEW SECTION. **Sec. 9.** (1) The commission, before the beginning
15 of its fiscal year, must prepare and submit its budget for that
16 fiscal year to the director for approval.

17 (2) The director must review and approve or disapprove all
18 submissions described in this section in a timely manner.

19 (3) The commission must develop and submit to the director for
20 approval any plans concerning, but not limited to, the following:

21 (a) The establishment, issuance, effectuation, and administration
22 of commission governance issues; and

23 (b) The initiation or establishment of any rule making.

24 (4) The director must review the commission's education program
25 to ensure that they are in keeping with state and federal laws.

26 NEW SECTION. **Sec. 10.** The commission shall deposit moneys
27 collected under this chapter and section 15 of this act in a separate
28 account in the name of the commission in any bank that is a state
29 depository. All expenditures and disbursements made from this account
30 under this chapter may be made without the necessity of a specific
31 legislative appropriation. Chapter 69.50 RCW does not apply to this
32 account or to the moneys received, collected, or expended as provided
33 in this chapter or section 15 of this act.

34 NEW SECTION. **Sec. 11.** The fee levied under section 15 of this
35 act constitutes a personal debt of every person charged or who
36 otherwise owes the fee, and the fee is due and payable to the
37 commission.

1 NEW SECTION. **Sec. 12.** (1) Financial and commercial information
2 and records submitted to either the board or the commission to
3 administer this chapter may be shared between the board and the
4 commission. They may also be used, if required, in any suit or
5 administrative hearing involving this chapter.

6 (2) This section does not prohibit:

7 (a) The issuance of general statements based upon the reports of
8 producers or producer/processors subject to this chapter if the
9 statements do not identify a specific producer or licensee; or

10 (b) The publication by the director or the commission of the name
11 of a producer or producer/processor violating this chapter and a
12 statement of the manner of the violation by that producer.

13 NEW SECTION. **Sec. 13.** Obligations incurred by the commission
14 and any other liabilities or claims against the commission must be
15 enforced only against the assets of the commission and, except to the
16 extent of such assets, no liability for the debts or actions of the
17 commission exists against either the state of Washington or any
18 subdivision or instrumentality thereof or against any member,
19 employee, or agent of the commission or the state of Washington in
20 the person's individual capacity. Except as otherwise provided in
21 this chapter, neither the commission members, nor its employees, may
22 be held individually responsible for errors in judgment, mistakes, or
23 other acts either of commission or omission, as principal, agent,
24 person, or employee, except for their own individual acts of
25 dishonesty or crime. No person or employee may be held individually
26 responsible for any act or omission of any other commission members.
27 The liability of the commission members shall be several and not
28 joint, and no member is liable for the default of any other member.
29 This section confirms that commission members have been, and continue
30 to be, state officers or volunteers for purposes of RCW 4.92.075 and
31 are entitled to the defenses, indemnifications, limitations of
32 liability, and other protections and benefits of chapter 4.92 RCW.

33 NEW SECTION. **Sec. 14.** All costs incurred by the department,
34 including staff support and the adoption of rules and other actions
35 necessary to carry out this chapter, must be fully reimbursed by the
36 commission. All costs incurred by the liquor and cannabis board for
37 activities under this chapter must also be fully reimbursed by the
38 commission.

1 NEW SECTION. **Sec. 15.** A new section is added to chapter 69.50
2 RCW to read as follows:

3 (1) To provide for permanent funding of the Washington state
4 cannabis cultivation commission, agricultural commodity assessments
5 must be levied by the board on cannabis producers and cannabis
6 producer/processors as follows:

7 (a) Beginning on October 31, 2022, except as provided in
8 subsection (3) of this section, the assessment on each producer
9 licensee is 0.29 percent of all sales revenues conducted by the
10 producer license.

11 (b) Beginning on October 31, 2022, except as provided in
12 subsection (3) of this section, the assessment on each producer/
13 processor licensee is 0.145 percent of all sales revenues conducted
14 by the processor license.

15 (2) Assessments collected under this section must be disbursed
16 quarterly to the Washington state cannabis cultivation commission for
17 use in carrying out the purposes of chapter 15.--- RCW (the new
18 chapter created in section 17 of this act).

19 (3) Until October 31, 2027, the assessments on producers and
20 producer/processors in this section do not apply to a producer or
21 producer/processor who is licensed through the cannabis social equity
22 program created under this chapter.

23 **Sec. 16.** RCW 41.06.070 and 2019 c 146 s 3 are each amended to
24 read as follows:

25 (1) The provisions of this chapter do not apply to:

26 (a) The members of the legislature or to any employee of, or
27 position in, the legislative branch of the state government including
28 members, officers, and employees of the legislative council, joint
29 legislative audit and review committee, statute law committee, and
30 any interim committee of the legislature;

31 (b) The justices of the supreme court, judges of the court of
32 appeals, judges of the superior courts or of the inferior courts, or
33 to any employee of, or position in the judicial branch of state
34 government;

35 (c) Officers, academic personnel, and employees of technical
36 colleges;

37 (d) The officers of the Washington state patrol;

38 (e) Elective officers of the state;

39 (f) The chief executive officer of each agency;

1 (g) In the departments of employment security and social and
2 health services, the director and the director's confidential
3 secretary; in all other departments, the executive head of which is
4 an individual appointed by the governor, the director, his or her
5 confidential secretary, and his or her statutory assistant directors;

6 (h) In the case of a multimember board, commission, or committee,
7 whether the members thereof are elected, appointed by the governor or
8 other authority, serve ex officio, or are otherwise chosen:

9 (i) All members of such boards, commissions, or committees;

10 (ii) If the members of the board, commission, or committee serve
11 on a part-time basis and there is a statutory executive officer: The
12 secretary of the board, commission, or committee; the chief executive
13 officer of the board, commission, or committee; and the confidential
14 secretary of the chief executive officer of the board, commission, or
15 committee;

16 (iii) If the members of the board, commission, or committee serve
17 on a full-time basis: The chief executive officer or administrative
18 officer as designated by the board, commission, or committee; and a
19 confidential secretary to the chair of the board, commission, or
20 committee;

21 (iv) If all members of the board, commission, or committee serve
22 ex officio: The chief executive officer; and the confidential
23 secretary of such chief executive officer;

24 (i) The confidential secretaries and administrative assistants in
25 the immediate offices of the elective officers of the state;

26 (j) Assistant attorneys general;

27 (k) Commissioned and enlisted personnel in the military service
28 of the state;

29 (l) Inmate, student, and temporary employees, and part-time
30 professional consultants, as defined by the director;

31 (m) Officers and employees of the Washington state fruit
32 commission;

33 (n) Officers and employees of the Washington apple commission;

34 (o) Officers and employees of the Washington state dairy products
35 commission;

36 (p) Officers and employees of the Washington tree fruit research
37 commission;

38 (q) Officers and employees of the Washington state beef
39 commission;

40 (r) Officers and employees of the Washington grain commission;

1 (s) Officers and employees of any commission formed under chapter
2 15.66 RCW;

3 (t) Officers and employees of agricultural commissions formed
4 under chapter 15.65 RCW;

5 (u) Executive assistants for personnel administration and labor
6 relations in all state agencies employing such executive assistants
7 including but not limited to all departments, offices, commissions,
8 committees, boards, or other bodies subject to the provisions of this
9 chapter and this subsection shall prevail over any provision of law
10 inconsistent herewith unless specific exception is made in such law;

11 (v) In each agency with fifty or more employees: Deputy agency
12 heads, assistant directors or division directors, and not more than
13 three principal policy assistants who report directly to the agency
14 head or deputy agency heads;

15 (w) Staff employed by the department of commerce to administer
16 energy policy functions;

17 (x) The manager of the energy facility site evaluation council;

18 (y) A maximum of ten staff employed by the department of commerce
19 to administer innovation and policy functions, including the three
20 principal policy assistants exempted under (v) of this subsection;

21 (z) Staff employed by Washington State University to administer
22 energy education, applied research, and technology transfer programs
23 under RCW 43.21F.045 as provided in RCW 28B.30.900(5);

24 (aa) Officers and employees of the consolidated technology
25 services agency created in RCW 43.105.006 that perform the following
26 functions or duties: Systems integration; data center engineering and
27 management; network systems engineering and management; information
28 technology contracting; information technology customer relations
29 management; and network and systems security;

30 (bb) The executive director of the Washington statewide reentry
31 council; and

32 (cc) Officers and employees of the Washington state cannabis
33 cultivation commission under chapter 15.--- RCW (the new chapter
34 created in section 17 of this act).

35 (2) The following classifications, positions, and employees of
36 institutions of higher education and related boards are hereby
37 exempted from coverage of this chapter:

38 (a) Members of the governing board of each institution of higher
39 education and related boards, all presidents, vice presidents, and
40 their confidential secretaries, administrative, and personal

1 assistants; deans, directors, and chairs; academic personnel; and
2 executive heads of major administrative or academic divisions
3 employed by institutions of higher education; principal assistants to
4 executive heads of major administrative or academic divisions; other
5 managerial or professional employees in an institution or related
6 board having substantial responsibility for directing or controlling
7 program operations and accountable for allocation of resources and
8 program results, or for the formulation of institutional policy, or
9 for carrying out personnel administration or labor relations
10 functions, legislative relations, public information, development,
11 senior computer systems and network programming, or internal audits
12 and investigations; and any employee of a community college district
13 whose place of work is one which is physically located outside the
14 state of Washington and who is employed pursuant to RCW 28B.50.092
15 and assigned to an educational program operating outside of the state
16 of Washington;

17 (b) The governing board of each institution, and related boards,
18 may also exempt from this chapter classifications involving research
19 activities, counseling of students, extension or continuing education
20 activities, graphic arts or publications activities requiring
21 prescribed academic preparation or special training as determined by
22 the board: PROVIDED, That no nonacademic employee engaged in office,
23 clerical, maintenance, or food and trade services may be exempted by
24 the board under this provision;

25 (c) Printing craft employees in the department of printing at the
26 University of Washington.

27 (3) In addition to the exemptions specifically provided by this
28 chapter, the director may provide for further exemptions pursuant to
29 the following procedures. The governor or other appropriate elected
30 official may submit requests for exemption to the office of financial
31 management stating the reasons for requesting such exemptions. The
32 director shall hold a public hearing, after proper notice, on
33 requests submitted pursuant to this subsection. If the director
34 determines that the position for which exemption is requested is one
35 involving substantial responsibility for the formulation of basic
36 agency or executive policy or one involving directing and controlling
37 program operations of an agency or a major administrative division
38 thereof, or is a senior expert in enterprise information technology
39 infrastructure, engineering, or systems, the director shall grant the
40 request. The total number of additional exemptions permitted under

1 this subsection shall not exceed one percent of the number of
2 employees in the classified service not including employees of
3 institutions of higher education and related boards for those
4 agencies not directly under the authority of any elected public
5 official other than the governor, and shall not exceed a total of
6 twenty-five for all agencies under the authority of elected public
7 officials other than the governor.

8 (4) The salary and fringe benefits of all positions presently or
9 hereafter exempted except for the chief executive officer of each
10 agency, full-time members of boards and commissions, administrative
11 assistants and confidential secretaries in the immediate office of an
12 elected state official, and the personnel listed in subsections
13 (1)(j) through (t) and (2) of this section, shall be determined by
14 the director. Changes to the classification plan affecting exempt
15 salaries must meet the same provisions for classified salary
16 increases resulting from adjustments to the classification plan as
17 outlined in RCW 41.06.152.

18 (5)(a) Any person holding a classified position subject to the
19 provisions of this chapter shall, when and if such position is
20 subsequently exempted from the application of this chapter, be
21 afforded the following rights: If such person previously held
22 permanent status in another classified position, such person shall
23 have a right of reversion to the highest class of position previously
24 held, or to a position of similar nature and salary.

25 (b) Any classified employee having civil service status in a
26 classified position who accepts an appointment in an exempt position
27 shall have the right of reversion to the highest class of position
28 previously held, or to a position of similar nature and salary.

29 (c) A person occupying an exempt position who is terminated from
30 the position for gross misconduct or malfeasance does not have the
31 right of reversion to a classified position as provided for in this
32 section.

33 NEW SECTION. **Sec. 17.** Sections 1 through 14 of this act
34 constitute a new chapter in Title 15 RCW.

--- END ---